

SUBSTITUTE FOR
HOUSE BILL NO. 5347

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
(MCL 750.1 to 750.568) by adding section 465a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 465a. (1) A person who knowingly operates an
2 audiovisual recording function of a device in a facility where a
3 motion picture is being exhibited without the consent of the
4 owner or lessee of that facility and of the licensor of the
5 motion picture being exhibited is guilty of a crime as follows:
6 (a) Except as provided in subdivisions (b) and (c), the
7 person is guilty of a misdemeanor punishable by imprisonment for
8 not more than 1 year or a fine of not more than \$10,000.00, or
9 both.
10 (b) If the person has 1 prior conviction for violating this
11 subsection, the person is guilty of a felony punishable by

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1 imprisonment for not more than 2 years or a fine of not more than
2 \$20,000.00, or both.

3 (c) If the person has 2 or more prior convictions for
4 violating this subsection, the person is guilty of a felony
5 punishable by imprisonment for not more than 4 years or a fine of
6 not more than \$40,000.00, or both.

[(2) This section does not apply to a person who operates an
audiovisual recording function of a device in a retail establishment
solely to demonstrate the use of that device for sales purposes.

7 [(3)] The owner or lessee of a facility where a motion picture
8 is being exhibited, or the authorized agent or employee of the
9 owner or lessee of that facility, or the licensor of the motion
10 picture being exhibited or the licensor's agent or employee, who
11 alerts a law enforcement agency of an alleged violation of this
12 section is not liable in any civil action arising out of measures
13 taken by an individual described in this subsection in the course
14 of detaining a person whom that individual in good faith believed
15 to have violated this section while awaiting the arrival of law
16 enforcement authorities, unless the plaintiff shows by clear and
17 convincing evidence that 1 or both of the following conditions
18 applied:

19 (a) The measures were manifestly unreasonable.

20 (b) The period of detention was unreasonably long.

21 [(4)] This section does not prevent any lawfully authorized
22 investigative, law enforcement, protective, or intelligence
23 gathering employee or agent, of this state or the United States,
24 from operating the audiovisual recording function of a device in
25 a facility where a motion picture is being exhibited as part of
26 an investigative, protective, law enforcement, or
27 intelligence-gathering activity.

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1 [(5)] This section does not prohibit a person from being
2 charged with, convicted of, or punished for any other violation
3 of law that prescribes conduct described in this section and that
4 provides a greater penalty.

5 [(6)] As used in this section, "audiovisual recording function"
6 means the capability of a device to record or transmit a motion
7 picture or any part of a motion picture by technological means.

8 Enacting section 1. This amendatory act takes effect June
9 1, 2004.